



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Design, Construction and Land Use**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2207781  
**Applicant Name:** Keith Landry  
**Address of Proposal:** 1708 Lakeside Avenue South

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to construct a new 4 ft. by 97 ft. private moorage pier with a 100 sq. ft. finger pier located at a right angle at the end of the proposed pier and a freestanding boat lift. The proposal includes an alteration of the existing bulkhead to provide a natural fish habit and the removal of the existing non-conforming pier.

The following approvals are required:

**Shoreline Substantial Development Permit** – to allow a pier and pilings accessory to a single family residence in an Urban Residential (UR) Shoreline Environment.  
Seattle Municipal Code (SMC) 23.60.020; 23.60.092.E; and 23.60.204.C.

**SEPA - Environmental Determination** – Seattle Municipal Code, Chapter 25.05

**SEPA DETERMINATION:**    ☐ Exempt    ☐ DNS    ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

**BACKGROUND DATA**

Site Description

The subject waterfront property abuts Lake Washington in the Leschi Neighborhood of southeast Seattle. The site is zoned Single Family Residential (SF 5000). The dry land portion of the property is within an Urban Residential (UR) shoreline district and the submerged portion is designated Conservancy Recreation (CR). The lot has 63.35 feet of frontage along the east side of Lakeside Avenue S. and extends approximately 160 feet in depth for an area of 10,082 square

feet. The site is currently under construction with a new two story single family residence. The front yard is not yet developed with any landscaping or vegetation. Well over 5,000 square feet of the property is submerged. An existing 5.7 ft. wide by 44.2 ft. long, wood pier is located four feet from the south property line.

#### Area Development

The surrounding neighborhood is predominately developed with single family residences on lots that vary in size and configuration.

#### Description Proposal

The applicant proposes to remove 14 creosote coated timber piling and the existing pier and construct a four (4)-foot wide by 97-foot long residential moorage pier with a 10-foot wide by 10-foot long (100 sq .ft.) finger pier attached at a right angle to the end of the pier. A free standing portable boat lift that measures approximately 8 ft by 10 ft. would be located near the east end of the pier. The project includes driving ten, four inch in circumference, steel mooring piles, 15 ft. from the north property line. Nine reflective prisms (approximately 10" by 18") that provide light penetration would be interspersed throughout the length of the pier.

The applicant also proposes to remove approximately 28 linear feet of existing rockery bulkhead and replace with 37 linear feet of new rockery and replant with native vegetation. The new beach head alignment would restore the lake floor to its original ordinary high water mark which at this location is approximately 28 feet.

#### Public Comment

No comment letters were received from neighbors during the comment period which ended January 10, 2003.

#### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC*

*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.*

#### **A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58 RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State of Washington to provide for the management of all shorelines of the state by planning for

and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology acts in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle, as well as other local jurisdictions, adopted a local shoreline master program, which for the City, is codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

In this instance, the proposed residential moorage pier and natural beach head reconstruction would further the public interests of protecting the shorelines and provide a recreational opportunity, and would not interfere with the public's use of the water. The subject application is consistent with the procedures outlined in RCW 90.58.

**B. THE REGULATIONS OF THIS CHAPTER**

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). The proposed residential moorage pier and boat lift are permitted accessory uses in the underlying SF 5000 residential zoning district and meet applicable zoning development standards.

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Residential (UR) shoreline environment. In order to obtain a shoreline substantial development permit the proposal must be consistent with the shoreline policies established in the Land Use Element of Seattle's Comprehensive Plan (SMC23.60.004) and the purpose and location criteria for the applicable shoreline environment contained in SMC 23.60.220. Residential piers are permitted as accessory uses in SMC 23.60.092.E. The subject proposal must be consistent with the general development standards for all proposals within a shoreline environment found in SMC 23.60.152. The standards for piers and floats accessory to residential development are found in SMC 23.60.204 and for development in the UR shoreline environment in SMC 23.60.540.

Residential bulkheads are exempt from the bulkhead standards at SMC 23.60.188.C if certain conditions exist and regulated public access and view corridors are not required for single family dwelling units or piers.

SMC 23.60.004 - Shoreline Policies and SMC 23.60.220.C.6 - Environments Established

The goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The intent of the area objectives for residential areas along Lake Washington are to protect existing single family residential uses. The purpose of the UR shoreline environment is also to protect residential areas.

The proposed residential pier would provide a recreational opportunity and enjoyment of Lake Washington for the future single family residents. As an authorized accessory use meeting all applicable development standards in an established residential area, the proposal would be consistent with the intent of the above described shoreline goals and policies.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort a Director's Rule, 6-93, was developed to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the location of the proposed work, the potential exists for negative impacts to the Lake Washington during construction. To avoid this, the applicant should take measures to prevent contamination of land or water and use materials and construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction, and prevent any construction debris from entering the water. SMC Section 23.60.064.E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60 and with RCW 90.58.020 (State policy and legislative findings).

The proposal, as conditioned below, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Erosion would not result from the development. No impacts to fish and wildlife would occur. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses would occur. No vegetation will be cleared

with this proposal. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. The proposal would not affect existing shoreline stabilization and no submerged public right-of-way or view corridors would be significantly affected.

The conditions noted at the end of this report, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.204 – Piers and Floats Accessory to Residential Development

These standards regulate the size and location of piers for residential uses. Piers should be located generally parallel to side lot lines and perpendicular to the shoreline and the existing pier would be consistent with this code requirement. The existing pier and finger pier would not be located within 15 ft. of the side lot lines. The width of the lot is more than the minimum 45 ft. The proposed pier is 97 ft. in length and the finger pier will not extend further than 97 ft. at the greatest point so it will be less than the maximum 100 ft. allowed from the shoreline and not beyond the length of the neighboring piers. The 10 ft. by 10 ft. finger pier will not exceed the maximum 100 sq. ft. allowed for finger piers and will be more than five ft. away from the side lot lines. The proposed portable freestanding boat lift is permitted by code. For these reasons, the proposed residential moorage pier will be consistent with the code requirements for piers accessory to residential development.

Disturbance of the lakebed sediments is expected because ten mooring piles will be driven. There is also the potential for construction debris to enter the water during construction, so care will have to be taken to prevent this from occurring, and Metro's recommendations to protect the water quality of Lake Union would have to be followed.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Conclusion

SMC Section 23.60.064.E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60 and with RCW 90.58.020 (State policy and legislative findings).

### **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist and supplemental information found in the file which form the basis for this analysis and decision.

Construction activities could result in the following adverse impacts: soil erosion and runoff into Lake Washington, emissions from construction machinery and vehicles, minor increase in dust levels, increased noise levels, and small increase in traffic and parking impacts due to construction workers' vehicles. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project.

Long-term or use related impacts are also anticipated from the proposal: increased ambient noise due to increased human activity which is not considered significant because the impacts are minor in scope and increased impact to juvenile salmonids due to additional over-water coverage which could be considered significant but as described below would be appropriately mitigated.

The construction plans will be reviewed for stability and soils considerations by DCLU's Geotechnical Engineer and the Building Plans Examiner, who will also require any additional soils-related information, recommendations, declarations, covenants and bonds as necessary in accordance with Director's Rule 2-87 prior to issuance of the Master Use Permit. As indicated by the soils report, this project (as recommended by the geotechnical engineer) will not significantly increase the risk of land instability or impacts to Lake Washington due to grading of 57 cubic yards of material on the dryland portion of the property. The identified impacts to juvenile salmonids would be mitigated by provision of several light penetrating prisms inserted throughout the pier's deck surface and restored beach habitat. However, during construction, increased noise levels will occur. Because of the limitations of the City's Noise Ordinance and the construction occurring out doors near residential receptors, it is appropriate, per SEPA, Noise Policies, to limit the hours of construction to weekday only, between the hours of 7:30 A.M. and 6:00 P.M.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

### **CONDITIONS- SHORELINE SUBSTANTIAL DEVELOPMENT AND SEPA**

#### **Prior to Construction**

The owner(s) and/or responsible party(y) shall:

1. Notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SMC 23.60.152), including the requirements set forth in condition 3.

2. Provide a **construction** and operation phase containment/clean-up plan for spilled contaminants and/or fuel spillage or seepage to the Land Use Planner. Make the plan part of the operational plan of the emergency stand-by generator.

Conditions of Approval during Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions shall be printed legibly on placards available from the Department of Design, Construction and Land Use (DCLU), shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

3. In addition to compliance with the applicable provisions of Section 23.60.152 of the Seattle Shoreline Master Program, the owner(s) and/or responsible party(s) shall exercise care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. The applicants shall implement best management practices approved and/or required by the State Department of Ecology (DOE) and the DCLU construction inspector. Materials and construction methods shall be used which prevent toxic materials, debris, waste material, concrete slurry, petrochemicals, and other pollutants from entering surface water during and after construction. All debris and other waste shall be disposed of in such a way as to prevent entry into Lake Washington.
4. The hours of construction shall be limited to weekday only, between the hours of 7:30 A.M. and 6:00 P.M.

Signature: \_\_\_\_\_ (signature on file) Date: April 7, 2003  
Carol I. Proud, Sr. Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services